

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 06-7561 PA (CWx)	Date	August 24, 2011
Title	TrafficSchool.com, Inc., et al. v. eDriver, Inc., et al.		

Present: The Honorable	PERCY ANDERSON, UNITED STATES DISTRICT JUDGE		
Paul Songco	Not Reported		N/A
Deputy Clerk	Court Reporter		Tape No.
Attorneys Present for Plaintiffs:		Attorneys Present for Defendants:	
n/a		n/a	

Proceedings: IN CHAMBERS - ORDER

The Court has received the Mandate issued by the Ninth Circuit Court of Appeals in this matter. The Ninth Circuit has instructed this Court to reconsider the scope and terms of the permanent injunction it issued. The Ninth Circuit has also instructed this Court to reconsider its denial of an award attorneys' fees and costs to plaintiff.

Any Motion for Attorneys' Fees shall be filed by October 3, 2011 and set for a hearing no later than November 7, 2011. In order to facilitate the Court's resolution of any such Motion, the Court orders the parties to comply with the following procedures:

Prior to filing any Motion for Attorneys' Fees, the moving party ("Movant") shall contact opposing counsel ("Respondent") to discuss thoroughly the substance of the contemplated motion pursuant to Local Rule 7-3. This conference of counsel must occur at least twenty-one (21) days prior to the filing of the Motion for Attorneys' Fees. At least seven (7) days prior to the conference of counsel, the Movant shall provide the following information:

- (1) Movant shall provide Respondent with the billing records on which the motion will be based, and shall specify the hours for which compensation will and will not be sought. These records may be redacted to prevent disclosure of material protected by the attorney-client privilege or work product doctrine.
- (2) Movant shall inform Respondent of the hourly rates that will be claimed for each lawyer, paralegal, or other person. If Movant's counsel or other billers have performed any legal work on an hourly basis during the period covered by the motion, Movant shall provide representative business records sufficient to show the types of litigation in which such hourly rates were paid and the rates that were paid in each type, including any fee agreement under which they provided services in this action. If Movant's counsel has been paid on an hourly basis in the case in question or in litigation of the same type as the case in question, records showing the rates paid for those services must be provided. If Movant will rely on other evidence to establish appropriate hourly rates, such as evidence

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of rates charged by attorneys of comparable experience and qualifications or evidence of rates used in previous awards by courts or administrative agencies, Movant shall provide such other evidence.

- (3) Movant shall furnish the evidence that will be used to support the related nontaxable expenses to be sought by the motion.

By providing the opposing party with information about the party's hours, billing rates and related nontaxable expenses, no party shall be deemed to make any admission or waive any argument about the relevance or effect of such information in determining an appropriate award.

All information furnished by any party under this section shall be treated as strictly confidential by the party receiving the information. The information shall be used solely for purposes of the fee litigation, and shall be disclosed to other persons, if at all, only in court filings or hearings related to the fee litigation. A party receiving such information who proposes to disclose it in a court filing or hearing shall provide the party furnishing it with prior written notice and a reasonable opportunity to request an appropriate protective order.

Additionally, at least seven (7) days prior to the conference of counsel, Movant shall provide to Respondent a draft of its portion of a Joint Statement which will eventually be submitted to the Court. The Joint Statement shall be formatted as a spreadsheet in Microsoft Excel (2002 or earlier versions), or a table in WordPerfect (X3 or earlier versions) or Microsoft Word (Word 2003 or earlier versions). The spreadsheet or table must include columns to identify: (1) the date of each time entry; (2) the biller for each time entry; (3) a brief description of the task; (4) the number of hours requested by the Movant for the task; (5) the number of hours, if any, Respondent believes should be awarded for the task; and for disputed items (6) a brief summary of Movant's position; and (7) a brief summary of Respondent's position.^{1/} A separate spreadsheet or table shall be prepared for any nontaxable costs sought by Movant. The spreadsheet or table of nontaxable costs must include columns to identify: (1) the item; (2) the amount of costs sought by Movant for the item; (3) the amount of costs, if any, Respondent believes should be awarded for the item; and for disputed items (4) a brief summary of Movant's position; and (5) a brief summary of Respondent's position.

Following the conference of counsel, and no more than fourteen (14) days prior to the filing of the Motion, Movant shall provide to Respondent the final version of its portion of the Joint Statement in an electronic format. Respondent shall then input its portion of the Joint Statement into the document and return the completed document to Movant at least seven (7) days prior to the filing of the Motion. Movant shall then file the Joint Statement at the same time it files the Motion. In addition to filing the

^{1/} To the extent Movant's records include a number or code identifying each unique time entry, that identifying number or code may be included as a separate column in the spreadsheet or table.

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Joint Statement, Movant shall email an electronic version of the Joint Statement to this Court's chambers ECF email inbox.

Additionally, to resolve the issues raised by the Ninth Circuit's Opinion concerning this Court's permanent injunction, the parties are ordered to meet and confer and file a joint status report no later than September 6, 2011. The joint status report shall contain the parties' respective positions concerning their proposals for how, consistent with the Ninth Circuit's Opinion, this Court should modify the permanent injunction and what, if any, additional factual findings the Court should rely on in modifying the permanent injunction. Once the Court has reviewed the joint status report, the Court will either set a status conference, issue an order requesting additional briefing, or issue a modified permanent injunction.

IT IS SO ORDERED.

Initials of Preparer

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cc: